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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

LAURA LAROCCA et al., Cross-complainants and Respondents, v. HARRY HARALAMBUS et al., Cross-defendants and Appellants.	B257686 (Los Angeles County Super. Ct. No. LC093192)

APPEAL from a judgment of the Superior Court of Los Angeles County, John P. Farrell, Judge. Affirmed in part; reversed in part.

Harry Haralambus, in pro. per., for Cross-defendant and Appellant Harry Haralambus.

Burton Law Offices and Stephen L. Burton for Cross-defendants and Appellants ImaStar Corporation, Out the Door, Lola Cosmetics, Beauty Partners, Inc., and Simple Beauty, Inc.

Law Offices of William D. Becker and William D. Becker for Cross-defendants and Appellants Imastar Corporation and Out the Door.

Law Offices of Mario D. Vega, Mario D. Vega and Robert S. Parada for Cross-complainants and Respondents Laura LaRocca and Joseph LaRocca.

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Cross-complainants Laura and Joseph LaRocca guaranteed DuWop, LLC's (DuWop) performance under a commercial lease.[1] DuWop defaulted on its obligations under the lease, and the landlord sued the LaRoccas for breach of guaranty. The LaRoccas then sued DuWop, Harry Haralambus, and a slew of other corporate entities to recover whatever funds the LaRoccas would eventually pay to the landlord under the guaranty. The LaRoccas alleged Haralambus and other cross-defendant entities were the alter egos of DuWop. After finding DuWop liable to the LaRoccas, the court held the remaining cross-defendants were jointly and severally liable with DuWop under the alter ego or single enterprise doctrines. We affirm in part and reverse in part. The evidence was sufficient to impose alter ego liability on some but not all cross-defendants.

FACTS AND PROCEDURE

1. Allegations of Complaint and Cross-complaint

This action began when 15001 Oxnard Street, LLC (the landlord) sued the LaRoccas, Maria Bartolucci, and Tom Cabbel for breach of guaranty. The landlord had leased its premises at 15001 Oxnard Street to DuWop. The LaRoccas, Bartolucci, and Cabbel (collectively, the guarantors) guaranteed DuWop's performance under the lease. DuWop defaulted on its rent payments in February 2011. The landlord demanded payment of the rent from the guarantors, but as of the filing of the complaint, they had not paid and owed at least $48,000 in rent.

The LaRoccas filed a first amended cross-complaint (the cross-complaint) in the action against Haralambus, DuWop, and other corporate entities including Imastar Corporation (Imastar), Out the Door, LLC (Out the Door), Beauty Partners, Inc. (Beauty Partners), Lola Cosmetics, LLC (Lola Cosmetics), and Simple Beauty, Inc. (Simple

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[1] When necessary for the sake of clarity, we will refer to the LaRoccas by their first names.

Beauty).[2] The LaRoccas alleged that Haralambus was the chief executive officer (CEO) of DuWop and was either an owner or manager of all the other cross-defendant entities. Moreover, they alleged a unity of interest and ownership among the cross-defendants such that each was the alter ego of the others. They also alleged cross-defendants constituted a single enterprise.

The cross-complaint asserted the LaRoccas were not responsible for any damages the landlord suffered from their alleged breach of guaranty. Instead, cross-defendants caused the landlord's damages. The LaRoccas sought indemnification from cross-defendants for any liability the LaRoccas might incur under the landlord's complaint. They also pleaded causes of action for equitable subrogation, declaratory relief, contribution, unjust enrichment, and negligence.

Additionally, the LaRoccas alleged fraud and constructive fraud against Haralambus and DuWop alone. These causes of action explained that Laura and Bartolucci previously ran DuWop. They agreed to guarantee the lease for DuWop based on the understanding that Haralambus would continue to operate DuWop as they had operated DuWop, and Haralambus and DuWop promised to pay rent to the landlord in a timely manner. When Laura sold her ownership interest in DuWop, it and Haralambus reiterated their obligation to make payments under the lease. These promises were fraudulent in that they had no intention of honoring them.

2. Bench Trial on the Cross-complaint

The court dismissed the landlord's complaint against the LaRoccas and the other guarantors in February 2014, pursuant to a settlement the parties reached. The maximum amount the landlord could recover from the guarantors under the "guaranty of lease" they signed was $275,000, plus fees and costs. The LaRoccas agreed to pay $100,000 in settlement of the complaint. At the time of trial, they had paid the landlord $80,000 in installment payments.

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[2] We will refer collectively to Haralambus and these entities, other than DuWop, as cross-defendants. DuWop is not a party to this appeal.

The bench trial on the LaRocca's cross-complaint took place over the course of five days in February 2014. Of the cross-defendants on appeal, only Haralambus, Lola Cosmetics, and Out the Door appeared at trial. The Secretary of State had suspended the other cross-defendants and the court had stricken their answers to the cross-complaint. We set forth the pertinent facts adduced at trial in the following subparts.

a. DuWop

Laura LaRocca co-founded DuWop with Bartolucci around 1998 as a cosmetics company. DuWop's flagship product was called "Lip Venom." Laura and Bartolucci started the company out of Laura's kitchen, but they eventually grew out of that space to progressively larger spaces, until they leased the property from the landlord on Oxnard Street. The two of them each owned 44 percent of DuWop, and a small group of others owned the remaining 12 percent. Laura was CEO of DuWop and Bartolucci was chief creative officer.

Laura and Bartolucci met Haralambus in the spring of 2006 when they were looking for an investor. Among other things, the two discussed with Haralambus that DuWop needed to move out of its current business space. He also consulted with them on other business decisions during 2006. DuWop paid monthly fees of $10,000 to one of Haralambus's companies, Lambus Partners, Inc. (Lambus Partners), for Haralambus's consulting work.

Haralambus ultimately connected them with a commercial real estate agent who helped them find the Oxnard Street property. The landlord leased the Oxnard Street property to DuWop in December 2006 for a term of 10 years, and Laura, Bartolucci, and their respective spouses personally guaranteed the lease. The base rent under the lease was $22,307 per month.

Around the time DuWop was moving into the Oxnard Street property, Laura became ill and she wanted to take time off work. She began negotiating with Haralambus to take over as CEO around March 2007. He became CEO in November 2007, and in August 2008, he purchased her interest in DuWop through Lambus Partners. Laura never worked at DuWop again after November 2007. According to Laura, she and Haralambus discussed

removing her as a personal guarantor on the DuWop lease "numerous times." She understood that she would no longer be a personal guarantor after Lambus Partners purchased her interest. Haralambus did not put that agreement in the written documents he drafted regarding Lambus Partners' purchase of her interest in DuWop.

Lambus Partners was supposed to make four payments of $250,000 each to Laura for her interest in DuWop. It made only two of the payments. Laura and Haralambus talked many times about when Lambus Partners was going to be able to make the remaining payments, and during those talks he also assured her numerous times that he would remove the LaRoccas as personal guarantors on the lease. He never told her why Lambus Partners could not make the payments, other than it could not afford the payments at the time and would pay her later. He never indicated to her that Lambus Partners did not intend to pay the remaining installments.

In February 2011, Laura received a letter from the landlord's attorney at her home address. The letter advised that Out the Door had been paying the rent on behalf of DuWop for approximately one year, but that Out the Door would no longer do so effective March 2011. Laura had never heard of Out the Door at that point, and she was unaware it had been making the lease payments. Eventually, the landlord served her with the lawsuit for breaching the guaranty, and she settled it as described above. The landlord filed an eviction lawsuit against DuWop in approximately March 2011 and obtained a judgment for possession in December 2011.

b. Haralambus

Haralambus asserted he was "manager" of DuWop when Laura took her leave in November 2007, but as of the time of trial, he believed Laura was still a member of DuWop and owned an 8.55 percent share of DuWop. Despite this, when he had an operating agreement prepared for DuWop in 2008, the agreement did not list Laura as a member of DuWop.

Haralambus testified that the landlord and he (on behalf of DuWop) reached a settlement agreement in or around September 2011 regarding DuWop's breach of the lease.

There was no signed document constituting the settlement agreement between DuWop and the landlord.

Lambus Partners, Haralambus's entity that agreed to purchase Laura's interest in DuWop, loaned DuWop $1 million in 2007 and 2008. At some point, Lambus Partners changed its name to LMR Partners, Inc. (LMR Partners) and filed for bankruptcy. Lambus Corporation owned LMR Partners. Haralambus and his wife owned Lambus Corporation. LMR Partners' only asset was an approximately 38 percent interest in DuWop. Haralambus recognized that he had an ownership interest in DuWop indirectly through LMR Partners.

c. Imastar

Haralambus owned approximately 60 percent of Imastar. He characterized himself as the director of Imastar. Six other people owned the remainder of Imastar, but Haralambus declined to disclose those owners pursuant to a confidentiality agreement among them. Imastar had been located at the Oxnard Street property for approximately two years and did business there. Imastar did not have a written lease with the landlord or written sublease with DuWop.

Imastar made interest-free loans of between $1 million and $1.5 million to DuWop at some point in time after August 2008. DuWop never repaid these loans. There was no promissory note to document the loans. DuWop was supposed to repay the loans "as soon as possible."

In or around January 2012, DuWop assigned the trademarks of its products to Imastar. Haralambus executed a "nunc pro tunc assignment" as the manager of DuWop in December 2012 that made the assignment effective in January 2012. The members of DuWop made the decision to assign the trademarks, except that LMR Partners abstained from the vote. Laura did not participate in the decision. The assignment was not a sale of the trademarks, as such. Haralambus asserted there were "discussions" that Imastar would forgive DuWop's debt in exchange for the trademarks, but the parties did not document the discussions or finalize an agreement to that effect. In Haralambus's opinion, the trademarks were worth much less than $1.5 million.

Imastar also made interest-free loans to Out the Door of between $500,000 and $1 million. There were no written promissory notes for these loans.

d. Out the Door

Imastar owned 75 percent of Out the Door, and Haralambus owned the other 25 percent. For some but not all months in 2010 and 2011, Out the Door paid the rent for the Oxnard Street property. When DuWop was able, it paid the rent. Out the Door did not have a written lease with the landlord or a written sublease with DuWop during this time period when it paid rent on behalf of DuWop, although it was located at the Oxnard Street property and did business there.

Out the Door paid the rent on the Oxnard Street property because DuWop started struggling financially. To alleviate the financial pressure on DuWop, Haralambus brought in Out the Door and other subtenants to help pay the rent, including Imastar and Beauty Partners. Although Out the Door would write one check to the landlord, the rent payments were actually allocated among all the entities according to their pro rata share of space at the Oxnard Street property.

When asked whether Out the Door ever demanded that DuWop reimburse it for the rental payments, Haralambus replied as follows:

"A That's a cute question because that would have been me demanding it from whom?

"Q No. It would have been Out the Door demanding it from DuWop.

"A But Out the Door is owned 75 percent by Imastar, so it's like calling your brother a bad boy for not paying a debt. So in the sense that there was no legal letter written, but at some point in time it came to a head, Out the Door was not willing to continue issuing those checks."

Out the Door never did anything to recover the payments it made under DuWop's lease because Haralambus did not "think that was ever necessary," and he never considered it a "debt" as such.

Out the Door eventually did enter into a lease with the landlord in January 2012 for a term of five years. The monthly base rent under the lease was $20,000.

After the landlord obtained a judgment of possession in the eviction suit against DuWop and entered into a new lease with Out the Door, DuWop continued to use the Oxnard Street property as its business address. There was no written sublease between Out the Door and DuWop.

e. Simple Beauty

Haralambus and his wife and children owned Simple Beauty. Simple Beauty had been located at the Oxnard Street property for approximately the last year. Simple Beauty did not have a written lease with the landlord or a written sublease with DuWop.[3]

f. Beauty Partners

Simple Beauty owned 50 percent of Beauty Partners. The other 50 percent was owned by a limited liability company in which Haralambus and his family members had no interest. Beauty Partners also did business at the Oxnard Street property. Haralambus was a director of Beauty Partners.

g. Lola Cosmetics

Haralambus described Beauty Partners as the parent company of Lola Cosmetics. Beauty Partners does business as "Lola Cosmetics." Lola Cosmetics did not have a written lease with the landlord or written sublease with DuWop.

3. Statement of Decision

After the LaRoccas rested their case, the court granted cross-defendants' motion for nonsuit on the declaratory relief and negligence causes of action. The statement of decision held as follows on the remaining causes of action.

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[3] The LaRoccas assert that Simple Beauty's suspension by the California Franchise Tax Board is still in effect, at least as of the filing of their respondent's brief. They argue that corporations under such a suspension may not appeal from an adverse judgment. Although they do not say so explicitly, presumably they want us to dismiss Simple Beauty's appeal. We decline to do so. Simple Beauty has requested that we take judicial notice of the "Certificate of Revivor" it received from the Franchise Tax Board certifying that the Board has relieved it of suspension. We grant the request for judicial notice. (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 950 [taking judicial notice of certificate of status issued by Secretary of State to corporate party].)

One of cross-defendants' defenses was that DuWop settled the lease controversy with the landlord, rendering the LaRoccas' settlement with the landlord totally unnecessary. The court found cross-defendants had wholly failed to prove any settlement of the lease controversy between DuWop and the landlord that either resolved the entire amount due under the lease, or released the LaRoccas from their guaranty under the lease.

The court further found the LaRoccas were entitled to a default judgment for $100,000 against DuWop on the causes of action for implied and equitable indemnification, equitable subrogation, contribution, and unjust enrichment. The LaRoccas owed the landlord $100,000 under the settlement agreement between them and the landlord in the breach of guaranty action. They had therefore proven damages in that amount.

The court also found Haralambus, Out the Door, Imastar, Simple Beauty, Beauty Partners, and Lola Cosmetics were jointly and severally liable for DuWop's debt to the LaRoccas under alter ego or single enterprise theories of liability. The court held: "Haralambus and these entities had such unity of ownership and interest 'that the separate personalities of the corporation and individual no longer existed' and if the purported corporate acts were treated as corporate acts, there would be an inequitable result in that the guarantors would be left with the bag for a claim against DuWop which had been stripped of its assets, while Haralambus and the entities had their offices at reduced rent."

The court explained that Haralambus controlled the cross-defendant entities and moved assets and obligations among them without any corporate or business formalities. "The maze of entities was intentional to confuse and delay any claims of creditors" such as the LaRoccas. There was no documentation to back up the loans from Imastar to DuWop. When DuWop assigned its trademarks to Imastar, there was no evidence of the value of the trademarks (although they appeared to be the heart of DuWop's business), and there was no evidence of any consideration for the assignment. Out the Door paid the rent for DuWop for approximately a year prior to DuWop's default under the lease, but there was no evidence of loan documents or invoices for these transactions between DuWop and Out the Door. While Haralambus said he allocated the rent among the entities occupying the Oxnard Street property, there was no documentation of the allocation. The end result of

DuWop's default was that Out the Door became the lessee of the Oxnard Street property at a reduced rent and the landlord sued the LaRoccas as guarantors.

In short, the court found "a co-mingling of funds and other assets, a failure to segregate funds of the separate entities, the unauthorized diversion of corporate funds or assets of DuWop to other than corporate uses of DuWop, the treatment by Haralambus of the assets of DuWop and Out the Door as his own, the failure to maintain adequate corporate records, and the use of a corporation as a mere shell, instrumentality or conduit for a single venture or the business of Haralambus; the disregard of legal formalities and the failure to maintain arm's length relationships among related entities; [and] the manipulation of assets and liabilities between entities so as to concentrate the assets in one and the liabilities in another."

The default judgment against DuWop and the alter ego and single enterprise findings against the other cross-defendants did not apply to the causes of action for fraud and constructive fraud. As to these, the court found the LaRoccas had failed to prove the causes of action and indicated it would dismiss them in the judgment.

The court entered judgment for the LaRoccas consistent with the statement of decision and awarded them costs. Cross-defendants filed a motion for new trial, which the court denied. They then filed a timely notice of appeal.

DISCUSSION

Cross-defendants do not dispute the court's finding that DuWop was liable for the $100,000 the LaRoccas owed the landlord. Instead, Haralambus and the cross-defendant entities argue they are not jointly and severally liable for the damages assessed against DuWop. They contend there was insufficient evidence to support the application of the alter ego doctrine. We agree in part. We hold the evidence was insufficient as to Simple Beauty, Beauty Partners, Lola Cosmetics, and Haralambus personally, but the evidence was sufficient with respect to Imastar and Out the Door.

Cross-defendants also contend the LaRoccas are estopped from piercing the corporate veil of DuWop and, further, the LaRoccas are attempting to "reverse pierce" the

corporate veil, even though California has rejected reverse piercing. We conclude these two arguments are forfeited.

Lastly, cross-defendants assert the court prejudicially erred when it gave the LaRoccas much more time to present their case than cross-defendants. We reject this contention.

1. Sufficiency of Evidence of Alter Ego and Single Enterprise Liability

"Corporate entities are presumed to have separate existences, and the corporate form will be disregarded only when the ends of justice require this result." (*Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737, disagreed with on another ground in *Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 524, 526.) "The alter ego doctrine arises when a plaintiff comes into court claiming that an opposing party is using the corporate form unjustly and in derogation of the plaintiff's interests." (*Mesler v. Bragg Management Co.* (1985) 39 Cal.3d 290, 300 (*Mesler*).) "Because society recognizes the benefits of allowing persons and organizations to limit their business risks through incorporation, sound public policy dictates that imposition of alter ego liability be approached with caution." (*Las Palmas Associates v. Las Palmas Center Associates* (1991) 235 Cal.App.3d 1220, 1249 (*Las Palmas*).)

The plaintiff invoking the alter ego doctrine seeks to disregard the corporate entity, or pierce the so-called corporate veil, to hold the individual shareholders liable for the entity's actions. (*Mesler*, *supra*, 39 Cal.3d at p. 300.) "[O]nly a difference in wording is used in stating the same concept where the entity sought to be held liable is another corporation instead of an individual." (*Las Palmas*, *supra*, 235 Cal.App.3d at p. 1249.) In this circumstance, we refer to the doctrine as single enterprise liability, instead of alter ego liability. (*Ibid*.) "[U]nder the single-enterprise rule, liability can be found between sister companies. The theory has been described as follows: '"In effect what happens is that the court, for sufficient reason, has determined that though there are two or more personalities, there is but one enterprise; and that this enterprise has been so handled that it should respond, as a whole, for the debts of certain component elements of it."'" (*Id*. at pp. 1249-1250.)

"[C]ommon principles apply regardless of whether the alleged alter ego is based on piercing the corporate veil to attach liability to a shareholder or to hold a corporation liable as part of a single enterprise." (*Toho-Towa Co., Ltd. v. Morgan Creek Productions, Inc.* (2013) 217 Cal.App.4th 1096, 1108 (*Toho-Towa*).) "There is no litmus test to determine when the corporate veil will be pierced; rather the result will depend on the circumstances of each particular case. There are, nevertheless, two general requirements: '(1) that there be such unity of interest and ownership that the separate personalities of the corporation and the individual no longer exist and (2) that, if the acts are treated as those of the corporation alone, an inequitable result will follow.'" (*Mesler, supra*, 39 Cal.3d at p. 300.)

Whether the court should pierce the corporate veil is primarily a question of fact that we should not disturb when supported by substantial evidence. (*Toho-Towa*, *supra*, 217 Cal.App.4th at p. 1108; *Associated Vendors, Inc. v. Oakland Meat Co.* (1962) 210 Cal.App.2d 825, 837 (*Associated Vendors*).) Here, cross-defendants contend that there was insufficient evidence of both essential elements, (1) unity of interest and ownership and (2) an inequitable result. We address each element in turn, and then address the two forfeited arguments.

a. Unity of Interest and Ownership

Courts have considered numerous factors in determining whether a unity of interest and ownership exists between a corporate entity and its shareholders or its sibling enterprises. Factors that the trial court considered here are among the many factors other courts have considered, namely: "[c]ommingling of funds and other assets, failure to segregate funds of the separate entities, and the unauthorized diversion of corporate funds or assets to other than corporate uses [citations]; the treatment by an individual of the assets of the corporation as his own [citations]; . . . the failure to maintain minutes or adequate corporate records . . . ; the identical equitable ownership in the two entities; the identification of the equitable owners thereof with the domination and control of the two entities; identification of the directors and officers of the two entities in the responsible supervision and management; . . . the use of the same office or business location; . . . the use of a corporation as a mere shell, instrumentality or conduit for a single venture or the

business of an individual or another corporation [citations]; . . . the disregard of legal formalities and the failure to maintain arm's length relationships among related entities [citations]; . . . [and] the manipulation of assets and liabilities between entities so as to concentrate the assets in one and the liabilities in another." (*Associated Vendors, supra*, 210 Cal.App.2d at pp. 838-840.)

No single factor governs (*Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 539), and in particular "courts have cautioned against relying too heavily in isolation on . . . concentration of ownership and control" (*Mid-Century Ins. Co. v. Gardner* (1992) 9 Cal.App.4th 1205, 1213). But it is not as though every one of the above factors need be present to pierce the corporate veil, because "the result will depend on the circumstances of each particular case," and there is no precise litmus test. (*Mesler, supra*, 39 Cal.3d at p. 300.) Still, the court that catalogued all the various factors noted that, in each of the catalogued cases, at least "several" of these factors were present. (*Associated Vendors, supra*, 210 Cal.App.2d at p. 840.)

With these principles in mind, we turn to the evidence. To hold a cross-defendant liable for DuWop's debt to the LaRoccas, the evidence that the particular cross-defendant lacked a personality separate from DuWop should be examined. We conclude substantial evidence existed that Imastar and Out the Door had a unity of interest and ownership with DuWop. There was insufficient evidence, however, with respect to the remaining entities and Haralambus himself.

Several factors supported imposition of single enterprise liability as to Imastar and Out the Door. To begin with, there was an identification of the director or officer responsible for supervising or managing the entities, and an identification of the equitable owners who dominated or controlled the entities. Haralambus was either the CEO or manager of DuWop. Either way, it was clear from the evidence that he controlled the day-to-day operations of DuWop after Laura took her leave in November 2007 and never returned. He also had a sizable equitable ownership interest in DuWop through LMR Partners, which purchased Laura's share of the company; Lambus Corporation owned LMR Partners, and Haralambus and his wife owned Lambus Corporation. At the same time,

Haralambus controlled Imastar. He owned a majority share—approximately 60 percent—and was a director of it. And Imastar in turn owned 75 percent of Out the Door. Haralambus himself owned the other 25 percent of Out the Door.

Moreover, DuWop, Imastar, and Out the Door were all located at the Oxnard Street property and did business there, and there was evidence Haralambus caused Imastar and Out the Door to disregard legal formalities when dealing with DuWop and failed to maintain arm's length relationships between them and DuWop. When Haralambus brought Imastar and Out the Door in as subtenants to help DuWop pay the rent at the Oxnard Street property, neither entity had a written sublease with DuWop. Imastar made interest-free loans of $1 million to $1.5 million to DuWop that were not documented by any promissory notes. There was no negotiated term for the loans. According to Haralambus, DuWop would simply repay them as soon as possible. DuWop never did repay the loans. Further, it transferred its trademarks to Imastar without any clear consideration in return. Haralambus suggested that DuWop's assignment of the trademarks to Imastar in 2012 was supposed to satisfy DuWop's debt, but the entities did not document or finalize an agreement to that effect, and in any event, the trademarks were worth much less than $1.5 million. Further evidencing that Haralambus operated the entities as a single enterprise, Imastar also made interest-free loans to Out the Door of $500,000 to $1 million, which again were not documented.

Out the Door was the entity that actually wrote the checks to the landlord for DuWop's rent. Despite Out the Door's help paying the rent without any legal formalities to recognize the purported sublessee relationship, Haralambus did not consider DuWop to owe a debt to Out the Door. Haralambus's reaction when asked whether Out the Door ever demanded reimbursement from DuWop is particularly enlightening as to the relationship between the entities. He asserted that Out the Door had never made a demand because "Out the Door is owned 75 percent by Imastar, so it's like calling your brother a bad boy for not paying a debt. So in the sense that there was no legal letter written, but at some point in time it came to a head, Out the Door was not willing to continue issuing those checks." The strong implication from his statements and the way in which he conducted business between

the three is that he treated all of these entities as siblings with very little regard for their separate personalities.

The evidence with respect to Simple Beauty, Beauty Partners, and Lola Cosmetics is less substantial, though. There appears to be *some* overlap in equitable ownership between Simple Beauty and DuWop in that Haralambus and his wife and children own Simple Beauty. But it is unclear, however, how much of Simple Beauty Haralambus himself owns and whether he holds a director or officer title that gives him control over the corporation. The overlap in equitable ownership and control between DuWop on the one hand and Beauty Partners and Lola Cosmetics on the other seems to be even smaller. (Because Beauty Partners is the parent of Lola Cosmetics and does business under that name, we consider them together.) Simple Beauty owns only 50 percent of Beauty Partners, and there is no evidence at all that Haralambus controls the limited liability company owning the other 50 percent.[4] The only other evidence that might support imposition of single enterprise liability with respect to these three entities is that they used the Oxnard Street property as a business address and did not have a written sublease with DuWop. But we are not convinced this sort of lack of formality rises to the level of the transactions discussed above with respect to Imastar and Out the Door, nor are we convinced that this lack of formality is enough to impose single enterprise liability on Simple Beauty, Beauty Partners, and Lola Cosmetics.

As well, the evidence was insubstantial that Haralambus personally was the alter ego of DuWop for purposes of the judgment against DuWop. It is true that he had an indirect ownership interest in DuWop and managed the company. But "[t]his fact, standing alone, is not enough to require disregard of the separate corporate entity." (*Macpherson v. Eccleston* (1961) 190 Cal.App.2d 24, 27.) The other evidence supporting the court's judgment relates to the relationship between DuWop and the other *corporate entities* the court determined were part of a single enterprise. This evidence does not show that the court should disregard

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[4] Bevaj, LLC owned the other 50 percent of Beauty Partners. The members of Bevaj, LLC are two individuals named William Guthy and Victoria Jackson.

the separate personalities of DuWop and *Haralambus the individual*. There is no showing, for example, that he commingled DuWop funds with his own, diverted DuWop funds for his own use, treated other assets of the corporation as his own, failed to maintain minutes or other adequate corporate records for DuWop, held himself out as personally liable for the debts of DuWop, or any of the other myriad factors catalogued by the case law that would relate to Haralambus personally. (See *Associated Vendors, supra,* 210 Cal.App.2d at pp. 838-840.)

b. Inequitable Result

Having determined that the court properly found a unity of interest and ownership between DuWop, Imastar, and Out the Door, we must examine whether evidence of the second required element for single enterprise liability existed. We conclude there was substantial evidence that an injustice or inequity would result, absent imposition of single enterprise liability.

Courts often state that they will disregard the corporate form when the corporate form was "used to perpetrate a fraud, circumvent a statute, or accomplish some other wrongful or inequitable purpose." (*Sonora Diamond Corp. v. Superior Court, supra*, 83 Cal.App.4th at p. 538.) They have "also warned against stretching the concept of inequity too far: 'Certainly, it is not sufficient to merely show that a creditor will remain unsatisfied if the corporate veil is not pierced, and thus set up such an unhappy circumstance as proof of an "inequitable result." In almost every instance where a plaintiff has attempted to invoke the doctrine he is an unsatisfied creditor. The purpose of the doctrine is not to protect every unsatisfied creditor, but rather to afford him protection, where some conduct *amounting to bad faith* makes it inequitable, under the applicable rule above cited, for the equitable owner of a corporation to hide behind its corporate veil.'" (*Mid-Century Ins. Co. v. Gardner, supra*, 9 Cal.App.4th at p. 1213.)

Still, at least one court has held that "[a]n inequitable result does not require a wrongful intent" (*Relentless Air Racing, LLC v. Airborne Turbine Ltd. Partnership* (2013) 222 Cal.App.4th 811, 813), and the court found inequity would result if it did not pierce the corporate veil because the corporate defendant was highly unlikely to ever have assets to

satisfy the judgment (*id.* at p. 816). Thus, the inequity in that case was that the plaintiff-creditor would remain unsatisfied.

Here, cross-defendants contend the court erred because the fact that DuWop had no assets and would be unable to satisfy the judgment for the LaRoccas did not amount to an inequitable result. They moreover argue that the court found the LaRoccas failed to prove fraud and constructive fraud, and these causes of action could not therefore form the basis for the required inequitable result.

We disagree the court erred. First, fraud was only one way to show that inequity would result, and "actual fraud was not required to apply the alter ego doctrine." (*Misik v. D'Arco* (2011) 197 Cal.App.4th 1065, 1074.) Second, even if an inability to satisfy the judgment alone does not constitute an inequitable result, substantial evidence showed more than the mere impossibility of satisfying the judgment. The court held that the LaRoccas would "be left with the bag for a claim against DuWop," *and* DuWop, Out the Door, Imastar, and other cross-defendant entities using the Oxnard Street property as their business address would "ha[ve] their offices at reduced rent." Indeed, the evidence showed that DuWop purportedly negotiated a resolution of the landlord's claim against it, but whatever agreement they had did not expressly release the LaRoccas from their guarantee. The result was that Out the Door entered into a new lease with the landlord for several thousand dollars a month less than the DuWop lease, permitting DuWop and the other entities to remain there, while the landlord went after the LaRoccas for back rent and attorney fees. Under these circumstances, when DuWop essentially rescued itself and then benefitted its sibling entities at the expense of the LaRoccas, we hold inequity would result absent piercing the corporate veil.

c. Estoppel and Reverse Piercing the Corporate Veil

Cross-defendants have forfeited two belatedly asserted arguments. They argue the LaRoccas are estopped from denying the separate corporate existence of DuWop because Laura has acted as an officer for the company in the past. (*Communist Party v. 522 Valencia, Inc.* (1995) 35 Cal.App.4th 980, 993-994 ["[P]ersons who themselves control a corporation, who have used the corporate form of doing business for their benefit, who have

dealt with and treated the corporation as a separate entity, or who have otherwise by their actions expressly or impliedly recognized its corporate existence, may be estopped to deny the corporation's separate legal existence."].)

They also argue the LaRoccas are attempting to "reverse pierce" a corporate veil, which one court has explained thusly: "The alter ego doctrine traditionally is applied to pierce the corporate veil so that a shareholder may be held liable for the debts or conduct of the corporation. Some courts recognize the corporate veil may be pierced in reverse so that a corporation may be held liable for the debts or conduct of a shareholder." (*Postal Instant Press, Inc. v. Kaswa Corp.* (2008) 162 Cal.App.4th 1510, 1518.) They assert that reverse piercing the corporate veil is not permitted in California. (*Id.* at p. 1519.)

Cross-defendants have forfeited both of these arguments by raising them for the first time on appeal and, further, in reply briefs. (*Bank of America, N.A. v. Roberts* (2013) 217 Cal.App.4th 1386, 1398-1399 [""[I]t is fundamental that a reviewing court will ordinarily not consider claims made for the first time on appeal which could have been but were not presented to the trial court." Thus, "we ignore arguments, authority, and facts not presented and litigated in the trial court. Generally, issues raised for the first time on appeal which were not litigated in the trial court are waived.""].)

A finding of forfeiture is particularly appropriate here. Had cross-defendants raised the reverse piercing argument below, the LaRoccas would have had a chance to explain why it was meritless. Cross-defendants assert the LaRoccas wanted to reverse pierce DuWop's corporate veil to get at the other cross-defendant entities. But this was not at all the theory of the LaRoccas' case. If they sought true reverse piercing of DuWop's veil, Out the Door and Imastar would have been the primary debtors, and DuWop would have been held vicariously liable for those entities' debt by virtue of the fact that the entities were shareholders in DuWop. The court found the opposite—that DuWop was the bad actor and owed the LaRoccas damages, and the other entities were vicariously liable for DuWop's debt. This constitutes a traditional piercing claim. Moreover, the LaRoccas sought to hold the other entities liable for DuWop's debt under the single enterprise doctrine. The single enterprise doctrine is well accepted in California.

Forfeiture is also particularly appropriate as to the estoppel argument. Estoppel is an equitable doctrine rooted in fundamental fairness and involves questions of fact for the trial court. (*Gruendl v. Oewel Partnership, Inc.* (1997) 55 Cal.App.4th 654, 661; *In re Marriage of Turkanis & Price* (2013) 213 Cal.App.4th 332, 353.) Cross-defendants' failure to raise the estoppel argument below deprived the LaRoccas of the opportunity to rebut the argument and the trial court of the opportunity to resolve the pertinent fact questions. For instance, even if the court had found that Laura was formerly an officer of DuWop, there was substantial evidence that she had sold her interest in the company and had no control over the company for awhile. This evidence may have convinced the court that Laura was more akin to a third party and not someone "who actually control[led] the corporation" and should be estopped from disregarding the corporate form. (*Communist Party v. 522 Valencia, Inc., supra*, 35 Cal.App.4th at p. 994.)

2. Time for Trial

Cross-defendants contend the court prejudicially erred in giving the LaRoccas eight hours to present their case and giving cross-defendants only 2.75 hours. "A trial court has the inherent authority and responsibility to fairly and efficiently administer the judicial proceedings before it. [Citation.] This authority includes the power to supervise proceedings for the orderly conduct of the court's business and to guard against inept procedures and unnecessary indulgences that tend to delay the conduct of its proceedings. [Citation.] In this vein, the court has the power to expedite proceedings which, in the court's view, are dragging on too long without significantly aiding the trier of fact." (*California Crane School, Inc. v. National Commission for Certification of Crane Operators* (2014) 226 Cal.App.4th 12, 22.) While the court must permit the parties to have their day in court, it is clearly within the court's power to impose time limits on the parties. (*Ibid.*) We review the court's control of the proceedings for abuse of discretion.

Cross-defendants have wholly failed to show an abuse of discretion here. While they measure the time from the start of trial to when the LaRoccas rested, they do not explain how much of that time was used for opening statements for both parties, nor do they explain how much of that time involved direct examination as opposed to cross-examination by

their own attorneys. This approach, based simply on the sheer number of hours each side used without examining how the parties used the time, is unconvincing. Having reviewed the entire record, it is clear cross-defendants had a fair chance to present their defense case. The LaRoccas called only two witnesses: (1) Laura, and (2) Haralambus as an adverse witness under Evidence Code section 776. Haralambus was also cross-defendants' main witness; they only called one other witness, whose testimony was insignificant. Haralambus was on the stand for a significant amount of the time that technically fell within the LaRoccas' case, and during that period, cross-defendants' attorneys spent much time "cross-examining" Haralambus. Further, even though cross-defendants complain they did not have as much time as the LaRoccas, they fail to identify which witnesses from their witness list were present and should have been allowed to testify, or identify any documents from their exhibit list that they did not have the chance to admit. Nor do they demonstrate prejudice in any other way. It is not our job to cull the record in search of prejudice for them. (*In re Marriage of McLaughlin* (2000) 82 Cal.App.4th 327, 337.)

DISPOSITION

The judgment is affirmed in part and reversed in part. That portion of the judgment holding Haralambus, Simple Beauty, Beauty Partners, and Lola Cosmetics jointly and severally liable for the $100,000 in damages owed to the LaRoccas is reversed. The judgment is otherwise affirmed. Haralambus, Simple Beauty, Beauty Partners, and Lola Cosmetics shall recover their costs on appeal.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.